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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Bermuda

Working paper prepared by the Secretariat

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I. General

1. Bermuda is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The basis of the current relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is enshrined in the constitution of each Territory.[1] The British Overseas Territories Act 2002 grants the right of British citizenship to "British Overseas Territory citizens".

2. The Territory is located in the western part of the Atlantic Ocean, about 917 kilometres east of the nearest continental shore, the North Carolina coast of the United States of America. The Territory, covering 57 square kilometres, consists of 8 major and 130 smaller islands. Hamilton, the capital, and St. George's, the former capital, are the two main towns. The historic town of St. George and related fortifications are a UNESCO World Heritage Site.

3. Bermuda, named after the Spanish navigator Juan de Bermudez, remained uninhabited until 1609, when it was settled by a group of shipwrecked English colonists. In 1610 the first slaves were brought to work on the farms and to dive for pearls. The islands were administered under charter of the Virginia Company and successor companies until the arrangement was dissolved in 1684 and government was fully assumed by the Crown. In 1620, the first Parliament session was held after the Crown granted the colony limited self-government. In 1968, Bermuda was granted internal self-government and a new Constitution.

4. According to 2010 estimates by the territorial Government, the population of Bermuda is approximately 68,000, up from 62,059 recorded during the 2000 census. Approximately 55 per cent of the population is black and 34 per cent white, with an estimated 15 per cent non-Bermudian.

5. The official currency of Bermuda is the Bermuda dollar, which has been pegged to the United States dollar on a one-to-one basis since 1970. Bermuda's main trading partners include the United States, the Republic of Korea, Spain, India and Brazil.

II. Constitutional, legal and political issues

6. The 1968 Constitution of Bermuda was amended on five occasions, the last one being in 2003. According to the administering Power, the Constitution gives the territorial Government almost full internal self-government, leaving the United Kingdom with a minimum number of constitutional controls. Under the Constitution, the Governor (and Commander-in-Chief) is appointed by the United Kingdom, after consultations with the Territory's Premier. The Governor is responsible for defence, external affairs, internal security and the police. The current Governor of Bermuda, Sir Richard Gozney, took office in December 2007.

Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations. Further details are contained in previous working papers posted on the United Nations website www.un.org/Depts/dpi/decolonization/docs.

[1] Information transmitted by the administering Power, 14 January 2011.

7. The Territory has a parliamentary system of government, comprising a Governor, a Deputy Governor, a Cabinet and a bicameral legislature, with a House of Assembly of 36 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor on the advice of the Premier, three on the advice of the leader of the opposition and three by the Governor at his discretion. The Governor appoints as Premier the member of the 36-seat House of Assembly who appears to him or her to be best able to command the confidence of a majority of the members of that House. The Premier heads a Cabinet that may not comprise more than 14 members of the legislature.

8. Bermuda's law and legal system are based on English common law and principles of equity, English statute law (in force since 1612) and acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government; its members are appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely the Magistrates' Court, the Supreme Court and the Court of Appeal.

9. Over the years, three official political parties have evolved in the Territory. The Progressive Labour Party, which traditionally viewed independence as a key goal, was formed by the black majority in 1963. The United Bermuda Party was formed in 1964, largely by the white population. According to the administering Power, the Bermuda Democratic Alliance was formed in November 2009 by disenchanted members of the United Bermuda Party. In early 2011, merger discussions between the Bermuda Democratic Alliance and the United Bermuda Party were under way.

10. General elections must be held every five years. In the 1998 general election, the Progressive Labour Party took power for the first time in 30 years and has been in power ever since. The current Premier, Paula Cox, took office on 29 October 2010, following her election as the leader of the governing Progressive Labour Party, after the outgoing Premier, Ewart Brown, stood down on completion of his four-year term as party leader.

11. Voters in the general and other elections or referendums must be 18 years of age, Bermudian by birth or status, or non-Bermudian long-term residents, citizens of the British Commonwealth. According to the administering Power, in 2010 the number of voters stood at 41,394.

12. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, a small number by Bermudian standards, 73.6 per cent voted against independence. The then-opposition party, the Progressive Labour Party, had organized a boycott of the referendum among supporters of independence, arguing that the issue should be resolved by general election.

13. While traditionally an important issue in Bermuda, the question of independence has not been predominant in the recent political scene as it was before. A January 2011 unofficial opinion poll indicated that 73 per cent of people did not want to sever ties with the United Kingdom (up from 63 per cent in a similar 2007 poll). Reportedly, 14 per cent were in favour of independence (down from 25 per cent). Demographically, a greater number of white respondents opposed independence (86 per cent versus 64 per cent).

21. The estimated gross domestic product (GDP) of the Territory for 2009 was $6 billion. The economy of the Territory contracted at a rate of 5.8 per cent. The toll of the global recession impacted the growth performance of the typically strong sectors in the Bermuda local economy. Financial services, tourism and construction all suffered large declines in domestic output. Economic activity remained sluggish in 2010 as a downturn in employment acted as a drag on domestic demand.

22. As part of the efforts of the territorial Government to support a shrinking economy, a Ministry of Economy, Trade and Industry was formed in 2010 to address the needs of local business and career aspirations of Bermudians. The new Ministry houses those Departments that focus on tourism and international business to help ensure that the Territory sustains and strengthens its competitiveness in both areas. Further, according to the 2010 Governor's Throne Speech, the territorial Government was encouraged by the positive impact of an economic empowerment zone in Northeast Hamilton and intends to develop transition zones along the perimeters of the existing boundaries of the economic empowerment zone, as well as in St. George's and Sandys. In early 2011, the territorial Government set aside $250,000 for initiatives by the Bermuda Small Business Development Corporation giving construction opportunities to small companies in an effort to mitigate the effects of the recession.

B. Financial services

23. Bermuda is one of the world's leading offshore financial and business centres. It is also among the major jurisdictions worldwide in large-scale insurance and reinsurance, reportedly transacting written premiums of about $104 billion in 2009. The Bermuda Monetary Authority is the integrated regulator of the financial service sector in Bermuda, which has the power to levy civil fines.

24. According to the administering Power, as of 31 December 2009, there were 15,306 international companies registered in Bermuda. The number of companies registered in the Territory had been increasing at a compound annual growth rate of approximately 2 per cent from 2002 to 2009. In the first quarter of 2010, there were 192 international business registrations.

25. According to the 2010 Governor's Throne Speech, recent legislative efforts in fields such as tax legislation had made an important contribution to the continued success of the financial services sector.

C. Tourism

26. The global economic and financial crisis had a negative impact on the tourism industry in Bermuda in 2008 and 2009. However, fuelled by a productive cruise season, total visitor arrivals to Bermuda in 2009 (599,042) increased by nearly 1 per cent, while air visitor arrivals decreased by approximately 11 per cent (to 235,860). A further decrease was registered in the first quarter of 2010. The deterioration of tourism demand worldwide compounded by bad weather conditions affected air travel to Bermuda. Forty-five flights were cancelled during the first quarter of 2010. According to media reports, overall visitor spending fell in 2010 by 23 per cent to $266 million.

27. At the same time, however, the opening of the new Heritage Wharf cruise pier enabled Bermuda to accommodate larger ships with more passengers. The increase in capacity led to an 11 per cent boost in cruise visitation in 2009 with a total of 318,528 cruise visitors. Projections indicate that cruise arrivals should continue to increase. Many one-day stays have been replaced by two- and three-day stays. Also, yacht arrivals for the first quarter of 2010 were up by almost 81 per cent, with a total of 228 crew visiting Bermuda compared to 126 in the first quarter of 2009.

D. Construction

28. Bermuda's construction industry declined in 2009 by an estimated 36.6 per cent compared to the previous year. The planned capital expenditure programme of the territorial Government for the 2010/11 budget year is $144 million, with most of the funding related to construction projects. Some $4 million was earmarked for housing initiatives, and $33.9 million provided for a new police station and magistrates court, and offices to house some government departments. In addition, $33 million dollars was allocated to the capital maintenance and expansion of the Tynes Bay waste treatment facility.

29. The Ministry of Labour, Home Affairs and Housing was renamed the Ministry of National Security in 2010 and was provided with $137 million for 2010, part of which would go towards stimulating construction. One such development, at Perimeter Lane, was completed in July and another, consisting of 98 units, in September 2010. The next significant project to be unveiled in 2011 would be an 84-unit lottery winners' homes followed by a development with 125 affordable housing units on ocean front property.

E. Transport and communications

30. Bermuda has very high-standard transport and telecommunications sectors. With a network of about 225 kilometres of paved public roads and 400 kilometres of private roads, Bermuda has one of the highest road traffic densities in the world, with approximately 100 vehicles per kilometre. Restrictions on car ownership to one per household, coupled with a policy of allowing no rental cars, have resulted in the development of a well-utilized group transportation system. Free public transportation for students via bus and ferry continues to be available.

31. Numerous regular commercial flights connect Bermuda to a number of destinations in the United States and Canada. A marked increase in general aviation traffic over the years is meeting the demand of the international business sector.

32. Bermuda has its own air and ship regulatory agencies. Both the Department of Civil Aviation and the Department of Maritime Administration maintain registries, which are considered to be as stringent as those of comparable agencies in the United Kingdom and the United States. With regard to the automation of aircraft information and records, in 2011 the Bermuda Department of Civil Aviation is expected to implement a system in its regulatory oversight infrastructure. According to the territorial Government, it will include the installation of a new multi-million-dollar radar system to provide radar coverage not only to flights bound for Bermuda, but for the tens of thousands of flights over the airspace of the Territory.

14 per cent mixed. A disparity between earning power is apparent as whites earn 131 per cent of the median wage, blacks 93 per cent and mixed and other races 88 per cent.

38. The official unemployment rate for 2009 is 4.5 per cent, 6 per cent for men and 3 per cent for women. Based on information provided by the administering Power, unemployment was 6 per cent for blacks and 3 per cent for whites; whereas youth unemployment reached 50 per cent. As reflected in the Territory's 2009 Labour Force Survey Executive Report, international business, business services and hotel sectors were impacted most heavily by declining job levels. The education, health and social work sector, which comprises a substantial number of government workers, registered an increase of positions.

39. According to the 2010 budget statement, the Ministry of Labour, Home Affairs and Housing was taking steps to provide retraining and cross-training opportunities for youth and persons seeking to reposition themselves in the job market. In addition, the Department of Labour and Training, with a budget of $8.6 million, would continue its Summer Employment Programme and accelerate its National Certification and Apprenticeship Programmes.

C. Education and culture

40. The Ministry of Education was provided a budget of $143 million in 2010-2011 to achieve the objectives of a strategic plan for the Bermuda public school system, namely, to provide world-class education that met global standards and ensure that students reach their full potential. The territorial Government took steps towards the better measurement of student performance and achievement by internationally recog ized standards in mathematics, science and English, and to improve instructional leadership and teacher quality. In addition, amendments would be made to the Education Act to strengthen the Board of Education and to ensure that accountability in the area of education addresses all relevant constituencies.

41. The literacy rate in the Territory is approximately 98 per cent of males and 99 per cent of females over 14 years of age. Education in Bermuda is compulsory for all children from 5 to 16 years of age and is free in government schools. According to the administering Power, approximately 58 per cent of Bermudian students of compulsory school age attend public schools. The public school system includes 2 senior secondary schools, 5 middle schools, 18 primary schools, 10 preschools, 1 special school and 1 alternative programme. Six private schools offer early primary education, as well as a number of other private schools for all ages. Those institutions receive no government funding. Approximately three quarters of white students attend private schools, and most black students attend public schools. Whereas through most of the 2000s only about half of the students attending public schools graduated from high school, in 2010, 82.5 per cent did so.

42. Graduates of senior school pursue further studies at Bermuda College, the Territory's main facility for tertiary education, or at institutions abroad, mainly in the United States, Canada and the United Kingdom. In 2010, following the downturn in the economy, the Division of Professional and Career Education has seen an increase in enrolment of 3 per cent and the College was accredited through the New England Association of Schools and Colleges. As previously reported, since the late 2000s, local students have not had to pay tuition fees, and benefit from

the home-student fee rate at British universities. In 2010, Bermuda became an associate contributing member of the University of the West Indies. It is expected that Bermudian students will be able to enjoy reductions on the full cost of tuition there.

43. The territorial Government has been developing a National Cultural Heritage Policy as a major step towards the promotion, preservation and celebration of the Territory's culture, cultural icons and culture bearers.

D. Health

44. Bermuda has an ageing population and a low fertility rate. Life expectancy at birth is approximately 80 years for women and 75 years for men. Life expectancy among blacks is nearly four years less than for whites. Chronic diseases continue to account for a disproportionate number of health challenges and they would be a major focus of interest by the Ministry of Health in 2011. Road traffic fatalities are a significant public health threat, accounting for 69 per cent of deaths in 16- to 24-year-old and 19 per cent of deaths in 25- to 44-year-old men. In 2010/11, the Ministry of Health was provided with a budget of $181 million.

45. Hospitalization insurance is mandatory for all employed and self-employed persons in Bermuda. In 2009 the Government introduced Future Care, a comprehensive and affordable insurance plan for seniors. Under the 2010 budget, the Bermuda Hospitals Board received a $10 million capital grant to assist with the development of the acute care hospital. The Bermuda Hospital Board's programmes and services include basic health care, community activities and various specialized programmes for life-threatening injuries and illnesses. King Edward VII Memorial Hospital and the Mid-Atlantic Wellness Institute, the Territory's mental health hospital, offer comprehensive diagnostic, treatment and rehabilitative services.

46. The Future Care insurance plan is being phased in over three years. About 2,700 seniors enrolled during 2010 and in 2011, all individuals aged 65 years and over will be eligible.

E. Human rights and related issues

47. The following major international human rights instruments apply in Bermuda: the European Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the International Convention on the Elimination of All Forms of Racial Discrimination.

48. According to the administering Power, until 2010, the Commission for Unity and Racial Equality was the statutory body directly responsible for stamping out racism in Bermuda. Although the Commission's legislation and the local human rights legislation dealt with similar discriminatory issues, the Commission's legislation did not provide any means for investigating or redressing issues relating to racism. The Commission for Unity and Racial Equality was dissolved in July

2010 and the 1981 Human Rights Act was amended to transfer all of its functions and obligations to the Human Rights Commission established under the Act.

49. Further, in 2010 the territorial Government reviewed its position in relation to compliance with the Convention on the Elimination of All Forms of Discrimination against Women with a view to signing on to the Convention in 2011, and researched options for the addition of sexual orientation to the 1981 Human Rights Act as soon as practicable.

50. In 2010, the passing of the Public Access to Information Legislation allows access to government-held information. According to the administering Power, under the Public Access to Information Legislation, not all information is made public. This includes information related to security and defence, commercially sensitive information, matters related to law enforcement and public safety, matters related to the financial and economic interests and personal data. The Public Access to Information Legislation would not be fully implemented until 2012 owing to the need to ensure, inter alia, that the records management systems within the Government can be properly organized for the retrieval of information. At the same time, an independent Media Council was created in the Territory in 2010.

F. Crime and public safety

51. The Bermuda Police Service is comprised of 467 officers and 70 active Reserves. In 2010, the Service formed a "gang task force", working with the United States Consulate to strengthen intelligence gathering and leading to the apprehension of those responsible for gun crime. Under the 2010/11 budget, $65.7 million was allocated to the Police Service to address gang-related crime.

52. Media reports indicated that during 2009/10 seven people were shot dead and an additional 25 people were injured in gun-related attacks. The territorial Government stepped up its activities in 2010, including the passing of the Firearms Amendment Act and the Bail Amendment Act to deal with a number of gun-related crimes. Further, it formed a Ministry of National Security, responsible, inter alia, for public safety and for strengthening the professional standards of the Bermuda Police Service, the Bermuda Regiment, and the Bermuda Fire and Rescue Service. A High-Risk Adolescent Intervention Team was created through a realignment of duties within the Department of Child and Family Services. Steps were taken to tackle the problem of reoffending criminals.

53. A Financial Intelligence Agency, which became fully operational in 2010, is responsible for the receipt, collection, analysis and dissemination of suspicious-activity reports, under the Territory's relevant legislation, such as the Anti-Terrorism (Financial and Other Measures) Amendment Act 2009 and the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010. This function was previously performed by the Financial Investigation Unit within the Bermuda Police Service. The police continue to have responsibility for the investigation of money-laundering and terrorist financing.

VI. Environment

54. The former Ministry of the Environment, Sport and Recreation was renamed the Ministry of the Environment, Planning and Infrastructure, and in 2010/11 was provided with a budget of $39 million. Its functions are to protect Bermuda's environment through monitoring, regulation and enforcement, as well as to promote the sustainable use of the island's natural resources. According to the 2010 Throne Speech, the territorial Government would lead the development of sustainable coral reef management and preservation.

55. Bermuda depends on rainwater as its source of drinking water. The territorial Government's 2009 water conservation campaign complemented the opening of the new Tynes Bay seawater desalination plant, which by 2010 had significantly reduced Bermuda's dependency on rainwater. In 2011, the Government is expected to develop a water supply and servicing master plan to evaluate Bermuda's water infrastructure and consider whether a regulatory authority is needed.

56. Approximately 98 per cent of electric power is provided by a single private entity, which relies exclusively on fossil fuels to generate electricity. The remaining 2 per cent of Bermuda's electric power is provided by the Tynes Bay waste-to-energy plant, owned and operated by the territorial Government's Ministry of Public Works. During 2010, the Department of Energy engaged in numerous public consultations with industry stakeholders and civil society to prepare a white paper on energy, a public policy document outlining Bermuda's plan to move away from complete dependency on fossil fuels.

57. In this regard, the territorial Government intends to mount an energy conservation campaign targeting young people with a view to creating a lifelong sense of personal responsibility in the conservation of energy. Incentives promoting investment in an alternative, green energy source by homeowners and businesses will continue to be promoted.

VII. Military issues

58. Bermuda maintains a defence regiment of some 600 soldiers, the Bermuda Regiment. While most are part-time, this figure includes some 140 "long-stay nucleus" and 30 full-time soldiers. The Territory's adult male population is subject to conscription by ballot, involving just over three years of part-time liability for weekly drills, as well as a 15-day annual camp. All soldiers are paid for their military service.

VIII. Relations with international organizations and partners

59. Bermuda is an associate member of the Caribbean Community (CARICOM) and a member of the Caribbean Financial Action Task Force set up to combat money-laundering. The Territory also participates in the Caribbean Conservation Corporation, the International Confederation of Free Trade Unions, the International Criminal Police Organization (INTERPOL) and the International Olympic Committee (IOC).

60. Bermuda is a member of the United Kingdom Overseas Territories. Upon the request of Bermuda, the Territory is not subject to the Overseas Association Decision implementing Part IV of the Treaty establishing the European Community. The arrangements for association with the European Union have never been applied to Bermuda, in accordance with the wishes of the territorial Government. Bermuda is, however, entitled to participate in the partnership meetings involving British Overseas Countries and Territories.

IX. Future status of the Territory

A. Position of the territorial Government

61. Information regarding developments on the future status of Bermuda is reflected in section II above.

B. Position of the administering Power

62. Information on the general position of the United Kingdom was included in the August 2010 report of the Secretary-General entitled "Second International Decade for the Eradication of Colonialism" (A/65/330, annex). On 4 October 2010, the United Kingdom made a statement at the 2nd meeting of the Special Political and Decolonization Committee (Fourth Committee) during the sixty-fifth session of the General Assembly.

63. According to the record of the Fourth Committee meeting (A/C.4/65/SR.2), the representative of the United Kingdom inter alia reiterated the British Government's established position that its relationship with its Overseas Territories was a modern one based on partnership, shared values and the right of each Territory to determine whether it wishes to stay linked to the United Kingdom or not. Although the situation in each Territory was different and some Territories were at a more advanced stage of development than others, the United Kingdom would continue to work with all the Territories, as appropriate, in areas such as good governance, political and economic development and transparency, enhanced security and reduced vulnerability to natural and non-natural disasters.

64. The speaker went on to say that the relationship between an Overseas Territory and the United Kingdom was enshrined in the constitution of each Territory. A recent constitutional review process with a number of the Territories had resulted in updated provisions of existing constitutions, such as on human rights, good governance and the respective roles of the Governor and locally elected politicians.

65. Further, good governance had been the central theme in all constitutional talks with the Territories. The British Government had no wish to micromanage its relationship with its Overseas Territories and was committed to allowing each Territory to run its own affairs to the greatest degree possible. But that brought with it responsibilities on the part of each Territory. Where the United Kingdom felt that a Territory was failing to fulfil the international obligations which extended to it or developments in a Territory gave rise to other concerns, the British Government would not hesitate to raise it with the Government of the Territory and to intervene where necessary.

C. Action taken by the General Assembly

66. On 10 December 2010, the General Assembly adopted without a vote resolutions 65/115 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/65/23) and its subsequent consideration by the Fourth Committee. Section II of resolution 65/115 B concerns Bermuda. Under the operative part, the General Assembly:

1. *Stresses* the importance of the 2005 report of the Bermuda Independence Commission, which provides a thorough examination of the facts surrounding independence, and continues to regret that the plans for public meetings and the presentation of a Green Paper to the House of Assembly followed by a White Paper outlining the policy proposals for an independent Bermuda have so far not materialized;

2. *Requests* the administering Power to assist the Territory by facilitating its work concerning public educational outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations, and, in this regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested.